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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/079,758	05/15/1998	DENNIS R MORRISON	MSC-22939-1-	8692

24957 7590 09/22/2003

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EXAMINER

SHARAREH, SHAHNAM J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 09/22/2003

26

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1617

The reply filed on June 30, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant has not properly elected a species for outer polymeric shell and a species for drug or drug precursors. See 37 CFR 1.111.

Examiner acknowledges the election of the Group I in Paper No 25. However, claims are also directed to plurality of patentably distinct species. Namely;

- A polymer outer membrane, which can be of any type of polymeric material in claims 1, 6, 9-35, 37-41, 43, 69, 72-78, 83-87. The polymeric moieties appear to be recited in claim 6.
- A drug or drug precursor enumerated in claims 9-22. Applicant is also informed that the language of a drug or drug precursor also encompass various diagnostic materials, which are patentably distinct from therapeutic material.

A telephone call was made to Mr. Cate on September 15, 2003 to request an oral clarification of the election of species, but did not result in an election being made.

Currently, 1, 69, 72, 73, 74, 75, 76, 77, 78, and 84 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

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the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahnam Sharareh whose telephone number is 703-306-5400. The examiner can normally be reached on 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, PhD can be reached on 703-308-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1123.

ss


SREENI PADMANABHAN
PRIMARY EXAMINER

9/16/03